

AMENDED IN SENATE JUNE 15, 2016

AMENDED IN ASSEMBLY MAY 4, 2016

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2827**

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**Introduced by Assembly Member ~~Levine~~ Members *Levine, Low,*  
*and Thurmond***

February 19, 2016

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~~An act to amend Section 1770 of the Civil Code, relating to unfair competition.~~ *An act to add and repeal Chapter 16 (commencing with Section 1425) to Title 10 of Part 2 of the Penal Code, relating to prisoners.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2827, as amended, ~~Levine. Advertising: Made in U.S.A. label: violations: cure.~~ *Prisoners: mental health treatment.*

*Existing law prohibits a person from being tried, adjudged to punishment, or having his or her probation, mandatory supervision, postrelease community supervision, or parole revoked while that person is mentally incompetent. Existing law establishes a process by which a defendant's mental competency is evaluated and by which the defendant receives treatment, including, if applicable, antipsychotic medication, with the goal of returning the defendant to competency. Existing law credits time spent by a defendant in a state hospital or other facility as a result of commitment during the process toward the term of any imprisonment for which the defendant is sentenced.*

*This bill, until January 1, 2021, for the Counties of Los Angeles and Santa Clara, would authorize a defendant who is or has been eligible*

*for public mental health services due to a serious mental illness or who is eligible for Social Security Disability Insurance benefits due to a diagnosed mental illness to petition the court, after the defendant's plea or conviction but prior to sentencing, for a sentence that includes mental health treatment. The bill would authorize a court, if it finds that the defendant has shown that he or she meets the criteria by a preponderance of the evidence, to order the Department of Corrections and Rehabilitation or the county authority to provide specified mental health service, including placement in a residential mental health treatment facility instead of state prison or county jail, placement in a mental health program within the state prison or county jail, or preparation of a postrelease mental health treatment plan. The bill would authorize the court, upon petition of the defendant or the prosecution, to recall a sentence that includes a mental health order and resentence the defendant to other mental health treatment or resentence the defendant without mental health treatment. The bill would provide that the defendant has the right to counsel for these proceedings. The bill would require the Legislative Analyst's Office to submit a report to the Legislature and the Governor, as specified.*

*By imposing additional duties upon county jail authorities, this bill would create a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

*This bill would make legislative findings and declarations as to the necessity of a special statute for the Counties of Los Angeles and Santa Clara.*

~~Existing law prohibits the sale or offering of sale in the state of any merchandise on which merchandise or on its container appears the words "Made in U.S.A.," "Made in America," "U.S.A.," or similar words when the merchandise or any article, unit, or part thereof, has been entirely or substantially made, manufactured, or produced outside of the United States.~~

~~Existing law, the Consumers Legal Remedies Act, makes unlawful certain acts identified as unfair methods of competition and unfair or~~

~~deceptive acts or practices undertaken by any person in a transaction intended to result or which results in the sale or lease of goods to any consumer.~~

~~This bill would include a violation of the “Made in U.S.A.” provisions as an unfair method of competition and unfair or deceptive act or practice under the Consumers Legal Remedies Act.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

- 1     *SECTION 1. This act shall be known and may be cited as the*  
2     *Mental Health Justice Pilot Project.*  
3     *SEC. 2. The Legislature finds and declares the following:*  
4     *(a) Exposure to violence increases the risk of developing a*  
5     *mental health condition such as post-traumatic stress disorder.*  
6     *Children in underserved communities are more likely to be exposed*  
7     *to violence than other children.*  
8     *(b) Ten times as many people with mental illness are in prisons*  
9     *and jails today than are in mental health treatment facilities.*  
10    *(c) Correctional facilities spend two to three times more money*  
11    *on adults with mental illnesses than they do on people who do not*  
12    *live with a mental illness.*  
13    *(d) Despite overall decreasing prison populations, California’s*  
14    *prisons are experiencing an increasing demand for mental health*  
15    *treatment services as prison inmates require mental health*  
16    *treatment at higher rates. This number is anticipated to continue*  
17    *to increase in the next five years and beyond.*  
18    *(e) In California, the annual prison cost for an inmate in the*  
19    *general population is \$51,000, while the annual community housing*  
20    *and outpatient treatment costs for a person with mental illness are*  
21    *60 percent less at \$20,412.*  
22    *(f) Nearly half of all prisoners in California are mentally ill and*  
23    *have received psychiatric treatment within the past year. This*  
24    *number has almost doubled in the last 15 years, making jails and*  
25    *prisons the de facto mental health system.*  
26    *(g) Individuals with mental illnesses tend to stay longer in prison*  
27    *or jail and, when released, are at a higher risk of returning to*  
28    *prison or jail than those without these illnesses.*

1     (h) *Mental health court participants have a significantly lower*  
2 *recidivism rate (47 percent) compared to similar defendants in*  
3 *traditional court.*

4     (i) *Mental health courts allow for the consideration of a*  
5 *defendant's mental health status during court proceedings and*  
6 *have shown to save \$7 in costs for every \$1 spent.*

7     (j) *According to federal court decisions, conditions in California*  
8 *prisons exacerbate mental health issues significantly. Offenders*  
9 *with mental illness are often subjected to higher rates of physical*  
10 *and sexual trauma, forced restraints, solitary confinement, and*  
11 *overmedication while incarcerated. Those who are kept in isolation*  
12 *are at higher risk for psychiatric injury, self-harm, and suicide.*

13     (k) *A defendant's mental illness should inform case processing*  
14 *and the nature of any criminal charges, in alignment with public*  
15 *safety and a defendant's constitutional rights.*

16     (l) *California must increase diversion programs to redirect*  
17 *defendants with mental illness away from prisons and jails, which*  
18 *exacerbate mental illnesses, impede treatment, and increase costs,*  
19 *and toward proven mental health treatment services.*

20     SEC. 3. Chapter 16 (commencing with Section 1425) is added  
21 to Title 10 of Part 2 of the Penal Code, to read:

22  
23                   CHAPTER 16. MENTAL HEALTH TREATMENT  
24

25     1425. (a) *A defendant who has pleaded guilty or nolo*  
26 *contendere to, or was convicted of, a felony or misdemeanor and*  
27 *who currently is, or at any prior time was, eligible for public*  
28 *mental health services due to serious mental illness or who*  
29 *currently is, or at any prior time was, eligible for Social Security*  
30 *Disability Insurance benefits due to a diagnosed mental illness*  
31 *may petition the court for a sentence that includes mental health*  
32 *treatment. The petition shall be filed after the defendant's plea or*  
33 *conviction, but before his or her sentencing.*

34     (b) *The defendant shall bear the burden of establishing by a*  
35 *preponderance of the evidence that he or she meets the criteria in*  
36 *subdivision (a).*

37     (c) *If the court determines that the defendant has met his or her*  
38 *burden, as described in subdivision (b), and that placement would*  
39 *not pose an unreasonable risk of danger to public safety and is in*

1 *the interest of justice, the court may order that the defendant's*  
2 *sentence include one or more of the following:*

3 *(1) (A) A requirement that the defendant serve, if the defendant*  
4 *agrees, all or a part of his or her sentence in a residential mental*  
5 *health treatment facility instead of in the state prison or a county*  
6 *jail.*

7 *(B) A defendant is not eligible for subparagraph (A) if his or*  
8 *her current plea or conviction is for a violent felony, as defined*  
9 *in subdivision (c) of Section 667.5, or if the defendant is required*  
10 *by an initiative statute to serve his or her entire sentence only in*  
11 *state prison.*

12 *(2) Regardless of the offense to which the defendant pleaded*  
13 *guilty or nolo contendere or for which the defendant was convicted,*  
14 *a requirement that the Department of Corrections and*  
15 *Rehabilitation or county jail authority, as applicable, place the*  
16 *defendant in a mental health program within the state prison or*  
17 *county jail system at a level of care determined to be appropriate*  
18 *by the department's mental health staff or county mental health*  
19 *staff, within 30 days of the defendant's sentencing.*

20 *(3) Regardless of the offense to which the defendant pleaded*  
21 *guilty or nolo contendere or for which the defendant was convicted,*  
22 *a requirement that the Department of Corrections and*  
23 *Rehabilitation or the county jail authority, as applicable, prepare*  
24 *a postrelease mental health treatment plan six months prior to the*  
25 *defendant's release from custody. The treatment plan shall specify*  
26 *the manner in which the defendant will receive mental health*  
27 *treatment services following release from custody and shall*  
28 *address, if applicable and at the discretion of the court, medication*  
29 *management, housing, and substance abuse treatment.*

30 *(d) At any time, upon a petition from the defendant or*  
31 *prosecutor, if it is in the public interest, the court may recall a*  
32 *sentence that includes a mental health treatment order issued*  
33 *under this section and either resentence the defendant to other*  
34 *mental health treatment authorized under subdivision (c) or*  
35 *resentence the defendant in the same manner as if he or she had*  
36 *not previously been sentenced with application of this section. The*  
37 *defendant shall receive credit for the time he or she served on the*  
38 *prior sentence and shall not be sentenced to a longer term than*  
39 *originally imposed.*

1 (e) The defendant shall have the right to counsel for all  
2 proceedings under this section.

3 (f) This section shall apply only to the counties of Los Angeles  
4 and Santa Clara.

5 1425.5. On or before December 31, 2020, the Legislative  
6 Analyst's Office shall submit a report to the Legislature and the  
7 Governor on the effectiveness of this chapter in treating mental  
8 illness, reducing prison populations, and public reducing costs.

9 1426. This chapter shall remain in effect only until January 1,  
10 2021, and as of that date is repealed, unless a later enacted statute,  
11 that is enacted before January 1, 2021, deletes or extends that  
12 date.

13 SEC. 4. The Legislature finds and declares that a special law  
14 is necessary and that a general law cannot be made applicable  
15 within the meaning of Section 16 of Article IV of the California  
16 Constitution because the existing resources in Los Angeles and  
17 Santa Clara make those counties uniquely suited to implement the  
18 Mental Health Justice Pilot Project.

19 SEC. 5. If the Commission on State Mandates determines that  
20 this act contains costs mandated by the state, reimbursement to  
21 local agencies and school districts for those costs shall be made  
22 pursuant to Part 7 (commencing with Section 17500) of Division  
23 4 of Title 2 of the Government Code.

24 SECTION 1. ~~Section 1770 of the Civil Code is amended to~~  
25 ~~read:~~

26 ~~1770. (a) The following unfair methods of competition and~~  
27 ~~unfair or deceptive acts or practices undertaken by any person in~~  
28 ~~a transaction intended to result or which results in the sale or lease~~  
29 ~~of goods or services to any consumer are unlawful:~~

30 ~~(1) Passing off goods or services as those of another.~~

31 ~~(2) Misrepresenting the source, sponsorship, approval, or~~  
32 ~~certification of goods or services.~~

33 ~~(3) Misrepresenting the affiliation, connection, or association~~  
34 ~~with, or certification by, another.~~

35 ~~(4) Using deceptive representations or designations of~~  
36 ~~geographic origin in connection with goods or services.~~

37 ~~(5) Representing that goods or services have sponsorship,~~  
38 ~~approval, characteristics, ingredients, uses, benefits, or quantities~~  
39 ~~which they do not have or that a person has a sponsorship,~~

1 approval, status, affiliation, or connection which he or she does  
2 not have.

3 (6) ~~Representing that goods are original or new if they have~~  
4 ~~deteriorated unreasonably or are altered, reconditioned, reclaimed,~~  
5 ~~used, or secondhand.~~

6 (7) ~~Representing that goods or services are of a particular~~  
7 ~~standard, quality, or grade, or that goods are of a particular style~~  
8 ~~or model, if they are of another.~~

9 (8) ~~Disparaging the goods, services, or business of another by~~  
10 ~~false or misleading representation of fact.~~

11 (9) ~~Advertising goods or services with intent not to sell them~~  
12 ~~as advertised.~~

13 (10) ~~Advertising goods or services with intent not to supply~~  
14 ~~reasonably expectable demand, unless the advertisement discloses~~  
15 ~~a limitation of quantity.~~

16 (11) ~~Advertising furniture without clearly indicating that it is~~  
17 ~~unassembled if that is the case.~~

18 (12) ~~Advertising the price of unassembled furniture without~~  
19 ~~clearly indicating the assembled price of that furniture if the same~~  
20 ~~furniture is available assembled from the seller.~~

21 (13) ~~Making false or misleading statements of fact concerning~~  
22 ~~reasons for, existence of, or amounts of price reductions.~~

23 (14) ~~Representing that a transaction confers or involves rights,~~  
24 ~~remedies, or obligations which it does not have or involve, or~~  
25 ~~which are prohibited by law.~~

26 (15) ~~Representing that a part, replacement, or repair service is~~  
27 ~~needed when it is not.~~

28 (16) ~~Representing that the subject of a transaction has been~~  
29 ~~supplied in accordance with a previous representation when it has~~  
30 ~~not.~~

31 (17) ~~Representing that the consumer will receive a rebate,~~  
32 ~~discount, or other economic benefit, if the earning of the benefit~~  
33 ~~is contingent on an event to occur subsequent to the consummation~~  
34 ~~of the transaction.~~

35 (18) ~~Misrepresenting the authority of a salesperson,~~  
36 ~~representative, or agent to negotiate the final terms of a transaction~~  
37 ~~with a consumer.~~

38 (19) ~~Inserting an unconscionable provision in the contract.~~

39 (20) ~~Advertising that a product is being offered at a specific~~  
40 ~~price plus a specific percentage of that price unless (A) the total~~

1 price is set forth in the advertisement, which may include, but is  
2 not limited to, shelf tags, displays, and media advertising, in a size  
3 larger than any other price in that advertisement, and (B) the  
4 specific price plus a specific percentage of that price represents a  
5 markup from the seller's costs or from the wholesale price of the  
6 product. This subdivision shall not apply to in-store advertising  
7 by businesses which are open only to members or cooperative  
8 organizations organized pursuant to Division 3 (commencing with  
9 Section 12000) of Title 1 of the Corporations Code where more  
10 than 50 percent of purchases are made at the specific price set forth  
11 in the advertisement.

12 ~~(21) Selling or leasing goods in violation of Chapter 4~~  
13 ~~(commencing with Section 1797.8) of Title 1.7.~~

14 ~~(22) (A) Disseminating an unsolicited prerecorded message by~~  
15 ~~telephone without an unrecorded, natural voice first informing the~~  
16 ~~person answering the telephone of the name of the caller or the~~  
17 ~~organization being represented, and either the address or the~~  
18 ~~telephone number of the caller, and without obtaining the consent~~  
19 ~~of that person to listen to the prerecorded message.~~

20 ~~(B) This subdivision does not apply to a message disseminated~~  
21 ~~to a business associate, customer, or other person having an~~  
22 ~~established relationship with the person or organization making~~  
23 ~~the call, to a call for the purpose of collecting an existing~~  
24 ~~obligation, or to any call generated at the request of the recipient.~~

25 ~~(23) (A) The home solicitation, as defined in subdivision (h)~~  
26 ~~of Section 1761, of a consumer who is a senior citizen where a~~  
27 ~~loan is made encumbering the primary residence of that consumer~~  
28 ~~for the purposes of paying for home improvements and where the~~  
29 ~~transaction is part of a pattern or practice in violation of either~~  
30 ~~subsection (h) or (i) of Section 1639 of Title 15 of the United States~~  
31 ~~Code or paragraphs (1), (2), and (4) of subdivision (a) of Section~~  
32 ~~226.34 of Title 12 of the Code of Federal Regulations.~~

33 ~~(B) A third party shall not be liable under this subdivision unless~~  
34 ~~(1) there was an agency relationship between the party who~~  
35 ~~engaged in home solicitation and the third party or (2) the third~~  
36 ~~party had actual knowledge of, or participated in, the unfair or~~  
37 ~~deceptive transaction. A third party who is a holder in due course~~  
38 ~~under a home solicitation transaction shall not be liable under this~~  
39 ~~subdivision.~~



1     ~~(24) (A) Charging or receiving an unreasonable fee to prepare,~~  
2     ~~aid, or advise any prospective applicant, applicant, or recipient in~~  
3     ~~the procurement, maintenance, or securing of public social services.~~

4     ~~(B) For purposes of this paragraph, the following definitions~~  
5     ~~shall apply:~~

6     ~~(i) “Public social services” means those activities and functions~~  
7     ~~of state and local government administered or supervised by the~~  
8     ~~State Department of Health Care Services, the State Department~~  
9     ~~of Public Health, or the State Department of Social Services, and~~  
10    ~~involved in providing aid or services, or both, including health~~  
11    ~~care services, and medical assistance, to those persons who,~~  
12    ~~because of their economic circumstances or social condition, are~~  
13    ~~in need of that aid or those services and may benefit from them.~~

14    ~~(ii) “Public social services” also includes activities and functions~~  
15    ~~administered or supervised by the United States Department of~~  
16    ~~Veterans Affairs or the California Department of Veterans Affairs~~  
17    ~~involved in providing aid or services, or both, to veterans, including~~  
18    ~~pension benefits.~~

19    ~~(iii) “Unreasonable fee” means a fee that is exorbitant and~~  
20    ~~disproportionate to the services performed. Factors to be~~  
21    ~~considered, when appropriate, in determining the reasonableness~~  
22    ~~of a fee, are based on the circumstances existing at the time of the~~  
23    ~~service and shall include, but not be limited to, all of the following:~~

24    ~~(I) The time and effort required.~~

25    ~~(II) The novelty and difficulty of the services.~~

26    ~~(III) The skill required to perform the services.~~

27    ~~(IV) The nature and length of the professional relationship.~~

28    ~~(V) The experience, reputation, and ability of the person~~  
29    ~~providing the services.~~

30    ~~(C) This paragraph shall not apply to attorneys licensed to~~  
31    ~~practice law in California, who are subject to the California Rules~~  
32    ~~of Professional Conduct and to the mandatory fee arbitration~~  
33    ~~provisions of Article 13 (commencing with Section 6200) of~~  
34    ~~Chapter 4 of Division 3 of the Business and Professions Code,~~  
35    ~~when the fees charged or received are for providing representation~~  
36    ~~in administrative agency appeal proceedings or court proceedings~~  
37    ~~for purposes of procuring, maintaining, or securing public social~~  
38    ~~services on behalf of a person or group of persons.~~

39    ~~(25) (A) Advertising or promoting any event, presentation,~~  
40    ~~seminar, workshop, or other public gathering regarding veterans’~~

benefits or entitlements that does not include the following statement in the same type size and font as the term “veteran” or any variation of that term:

(i) “I am not authorized to file an initial application for Veterans’ Aid and Attendance benefits on your behalf, or to represent you before the Board of Veterans’ Appeals within the United States Department of Veterans Affairs in any proceeding on any matter, including an application for such benefits. It would be illegal for me to accept a fee for preparing that application on your behalf.”

The requirements of this clause do not apply to a person licensed to act as an agent or attorney in proceedings before the Agency of Original Jurisdiction and the Board of Veterans’ Appeals within the United States Department of Veterans Affairs when that person is offering those services at the advertised event.

(ii) The statement in clause (i) shall also be disseminated, both orally and in writing, at the beginning of any event, presentation, seminar, workshop, or public gathering regarding veterans’ benefits or entitlements.

(B) Advertising or promoting any event, presentation, seminar, workshop, or other public gathering regarding veterans’ benefits or entitlements which is not sponsored by, or affiliated with, the United States Department of Veterans Affairs, the California Department of Veterans Affairs, or any other congressionally chartered or recognized organization of honorably discharged members of the Armed Forces of the United States, or any of their auxiliaries that does not include the following statement, in the same type size and font as the term “veteran” or the variation of that term:

“This event is not sponsored by, or affiliated with, the United States Department of Veterans Affairs, the California Department of Veterans Affairs, or any other congressionally chartered or recognized organization of honorably discharged members of the Armed Forces of the United States, or any of their auxiliaries. None of the insurance products promoted at this sales event are endorsed by those organizations, all of which offer free advice to veterans about how to qualify and apply for benefits.”

(i) The statement in this subparagraph shall be disseminated, both orally and in writing, at the beginning of any event,

1 presentation, seminar, workshop, or public gathering regarding  
2 veterans' benefits or entitlements.

3 (ii) ~~The requirements of this subparagraph shall not apply in a~~  
4 ~~case where the United States Department of Veterans Affairs, the~~  
5 ~~California Department of Veterans Affairs, or other congressionally~~  
6 ~~chartered or recognized organization of honorably discharged~~  
7 ~~members of the Armed Forces of the United States, or any of their~~  
8 ~~auxiliaries have granted written permission to the advertiser or~~  
9 ~~promoter for the use of its name, symbol, or insignia to advertise~~  
10 ~~or promote the event, presentation, seminar, workshop, or other~~  
11 ~~public gathering.~~

12 ~~(26) Advertising, offering for sale, or selling a financial product~~  
13 ~~that is illegal under state or federal law, including any cash payment~~  
14 ~~for the assignment to a third party of the consumer's right to receive~~  
15 ~~future pension or veteran's benefits.~~

16 ~~(27) Representing that a product is made in California by using~~  
17 ~~a Made in California label created pursuant to Section 12098.10~~  
18 ~~of the Government Code, unless the product complies with Section~~  
19 ~~12098.10 of the Government Code.~~

20 ~~(28) Representing that a product is made in the United States~~  
21 ~~by using "Made in U.S.A.," "Made in America," "U.S.A.," or~~  
22 ~~similar words if the merchandise or any article, unit, or part thereof,~~  
23 ~~has been entirely or substantially made, manufactured, or produced~~  
24 ~~outside of the United States unless the product complies with~~  
25 ~~Section 17533.7 of the Business and Professions Code.~~

26 ~~(b) (1) It is an unfair or deceptive act or practice for a mortgage~~  
27 ~~broker or lender, directly or indirectly, to use a home improvement~~  
28 ~~contractor to negotiate the terms of any loan that is secured,~~  
29 ~~whether in whole or in part, by the residence of the borrower and~~  
30 ~~which is used to finance a home improvement contract or any~~  
31 ~~portion of a home improvement contract. For purposes of this~~  
32 ~~subdivision, "mortgage broker or lender" includes a finance lender~~  
33 ~~licensed pursuant to the California Finance Lenders Law (Division~~  
34 ~~9 (commencing with Section 22000) of the Financial Code), a~~  
35 ~~residential mortgage lender licensed pursuant to the California~~  
36 ~~Residential Mortgage Lending Act (Division 20 (commencing~~  
37 ~~with Section 50000) of the Financial Code), or a real estate broker~~  
38 ~~licensed under the Real Estate Law (Division 4 (commencing with~~  
39 ~~Section 10000) of the Business and Professions Code).~~

1     ~~(2) This section shall not be construed to either authorize or~~  
2     ~~prohibit a home improvement contractor from referring a consumer~~  
3     ~~to a mortgage broker or lender by this subdivision. However, a~~  
4     ~~home improvement contractor may refer a consumer to a mortgage~~  
5     ~~lender or broker if that referral does not violate Section 7157 of~~  
6     ~~the Business and Professions Code or any other law. A mortgage~~  
7     ~~lender or broker may purchase an executed home improvement~~  
8     ~~contract if that purchase does not violate Section 7157 of the~~  
9     ~~Business and Professions Code or any other law. Nothing in this~~  
10    ~~paragraph shall have any effect on the application of Chapter 1~~  
11    ~~(commencing with Section 1801) of Title 2 to a home improvement~~  
12    ~~transaction or the financing of a home improvement transaction.~~